

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: John Zimmerman

Serial No.: 10/084,715

Filing Date: February 25, 2002

For: Method and apparatus for an adaptive  
audio-video program recommendation system

Examiner: Clyde H. Jones III

Art Unit: 2623

Confirmation No.: 6622

Attorney Docket No.: US020013

January 26, 2007

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE TO OFFICE ACTION**

Sir:

This is in response to the Office Action dated November 28, 2006, and made Final. In such Office Action, it was stated that the declaration under 37 C.F.R. §1.131 filed on September 11, 2006, was ineffective to overcome the Bates et al. reference (U.S. Patent Publication 2002/0145321). Furthermore, the prior art rejections to Bates alone and in combination with Percy et al. (U.S. Patent 4,646,145) or Reynolds et al. (EP 0774866) were maintained and the Office Action was made Final.

Applicant again respectfully traverses all rejections based on Bates et al. '321 and requests that the finality of the Office Action dated November 28, 2006, be **withdrawn** in view of the new Declaration under 37 C.F.R. §1.131 filed herewith ("the 131 Declaration"). The Bates et al. '321 reference has an effective date of January 31, 2002 ("the Effective Date"). The 131 Declaration provides evidence of conception of the present invention prior to the Effective Date, and the 131 Declaration in combination with an additional Declaration by Aaron Waxler (prosecuting attorney that filed the original application on February 25, 2002) provided herewith provide evidence of diligence from a date prior to the Effective Date to a constructive reduction

to practice (i.e., the filing of the patent application). Furthermore, the 131 Declaration indicates that the invention was established in this country.

Accordingly, Applicant respectfully submits that Bates et al. '321 is not a valid prior art reference, and all prior art rejections based on Bates et al '321 should be withdrawn. Passage of this case to allowance is earnestly solicited.

Any fee due with this paper, not already paid through an EFS-Web filing, may be charged to Deposit Account No. 50-3894. Any overpayment may be credited to Deposit Account No. 50-3894.

Respectfully submitted,

PHILIPS INTELLECTUAL PROPERTY & STANDARDS



By: Harris A. Wolin, Reg. No. 39,432  
Attorney for the Applicant

**Please Address All Correspondence to:**

Yan Glickberg, Registration No. 51,742  
Phone: (914) 333-9618  
CUSTOMER NUMBER 24737